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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 MICHAEL T. GEBHART,

Case No. 2:17-cv-02891-JAD-PAL

8 Plaintiff,

ORDER

9 v.

10 DITECH FINANCIAL LLC,

11 Defendant.

12 This matter is before the court on the parties' failure to file a joint pretrial order as required  
13 by LR 26-1(e)(5). The Discovery Plan and Scheduling Order (ECF No. 9) filed February 9, 2018,  
14 required the parties to file a joint pretrial order required by LR 26-1(e)(5) no later than September  
15 7, 2018. There are no dispositive motions pending. To date, the parties have not complied.

16 On October 5, 2018, plaintiff's counsel filed a Notice of Dismissal with Prejudice (ECF  
17 No. 13) indicating the parties had entered into a settlement agreement with each side to bear their  
18 own fees and costs. On October 9, 2018, a Minute Order (ECF No. 14) was entered advising  
19 counsel that the Notice (ECF No. 13) was insufficient and that counsel needed to comply with Fed.  
20 R. Civ. P. 41(a)(1)(A)(ii) to dismiss this case. Because defendant appeared and filed an answer a  
21 notice of dismissal is insufficient. Either a court order "on such terms as the court proper" Rule  
22 41(a)(2) or a stipulation for dismissal signed by all parties who have appeared is required. Rule  
23 41(a)(1)(A)(ii). Plaintiff has not applied for a court order, and the parties have not stipulated to  
24 dismissal. This case remains open on the court's docket and has wasted judicial resources to  
25 monitor a case that should be dismissed and closed if, in fact, the parties have settled. If they have  
26 not finalized their settlement discovery has closed and the joint pretrial order is more than two  
27 months overdue.

28 Accordingly,

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- DATED this 14th day of November, 2018.

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